REMARKS:

Claims 1-29 remain in the application for consideration of the Examiner.

Reconsideration and withdrawal of the outstanding rejections is respectfully requested in light of the following remarks.

Claims 1, 5, and 9 have been amended in order to more particularly point out and distinctly claim the invention. Applicants expressly reserve the right to pursue broader claims in this or another application.

REJECTION UNDER 35 U.S.C. § 103:

Claims 1-29 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent 6,285,989 to Shoham ("Shoham") in view of a document titled "Active and Real-time Functionalities for Electronic Brokerage Design" by M. Beck, et al ("Beck").

This rejection is respectfully traversed.

Claim 1 has been amended to recite limitations including:

> an event container connected to the communication interface and operable to receive messages from the communication interface as events, one or more of the messages and their corresponding events each being associated with one or more marketplace transactions;
>
> . . .
>
> wherein each event is defined to expire within a respective selected time period if unused, and
>
> wherein each specified event is stored in the event container only until one of the following occurs:
>
> the condition instance initiating the specified event, or
>
> expiration of the specified event.

Claims 5 and 9 have been similarly amended. The proposed combination of Shoham and Beck fails to disclose or suggest all of the limitations of claim 1, including the specific limitations pointed out above. For example, the proposed combination of Shoham and Beck fails to disclose or suggest storing an event, which is a received message, and which expires within a selected time period, in an event container only until one of the following

occurs: the condition instance initiating the specified event, or expiration of the specified event.

While it is appreciated that the present claims are rejected over the combined teachings of Shoham and Beck, the Office Action seems to rely solely on the teachings of Beck in rejecting limitations such as those particularly pointed out above. Therefore, the arguments that follow are primarily focused on Beck.

For example, Beck fails to teach storing an event only until the event is either initiated or expires.

Beck merely teaches maintaining a log of event history. The log of event history is a log of "[t]he history of event instances."[1] In other words, the Beck log is a log of events that occurred in the past. Thus, Beck clearly stores events *after* the events are initiated. Thus, Beck fails to teach storing an event only until the condition instance initiates the event.

Beck also fails to teach that each event expires within a respective selected time period, and storing each event only until it expires. The past Office Actions have repeatedly pointed to the portion of Beck that states "[t]he log must include only relevant history for brevity,"[2] alleging that this statement teaches expiration of events and storing an event only until it expires. Applicants respectfully disagree as follows.

The question here is not whether some amount of time elapses between the time the event is stored in Beck's log and the time the event is discarded. The question is, rather, a question of the conditions that Beck teaches for deleting an event. The only condition Beck teaches for deleting an event is *relevancy*. Claim 1, in contrast, recites deleting an event once it expires. There is no indication in Beck that the age of the event relates to its relevancy.

Nevertheless, the most recent Advisory Action reasons that the term "brevity" as defined by Webster's relates to a short duration, and duration relates to time, so

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[1] Beck, p. 4.
[2] *Id.*

"[t]herefore, the events are stored for a short duration of time before being removed from the log."

While the thoroughness of the explanation is greatly appreciated, Applicants respectfully disagree for the following reasons:

a) The term "brevity" in the sentence "[t]he log must include only relevant history for brevity" means "briefness" or "conciseness" rather than "a short duration of time";

b) Even if the Beck log only stores events for a short duration of time (although this point is not conceded), this would not change the fact that Beck only teaches deleting or saving events based on their relevancy rather than based on an expiration date; and

c) Even if the Beck log only stores events for a short duration of time (although this point is not conceded), Beck would still fail to teach that "each event is defined to expire within *a respective selected time period if unused*" (emphasis added) as recited in the claims.

Each of the above points is discussed below in greater detail.

With respect to point (a), the Advisory Action argues that Webster's dictionary defines brevity as a shortness of duration; however, this is not the complete definition. The complete definition is "shortness of duration; *especially* : shortness or conciseness of expression."[3] Thus, the definition is not referring to duration as a shortness of time; instead, the definition is referring to duration as a "shortness or conciseness of *expression*." It is respectfully submitted that the statement in Beck that "[t]he log must include only relevant history for brevity" means that irrelevant history is removed from the log in order to keep the log brief.

With respect to point (b), even if the Beck log only stores events for a short duration of time (although this point is not conceded), this would not change the fact that Beck only

[3] http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=brevity

teaches deleting or saving events based on their relevancy rather than based on an expiration date. There is nothing in Beck to suggest that "relevancy" is in any way related to an amount of time. Thus, it is respectfully submitted that the statement in the Advisory Action that "since the log must only include the relevant event history, older events are removed" cannot be supported by any teaching of the cited references. Rather, such reasoning can only be supported in light of Applicants' disclosure, which amounts to impermissible hindsight.

Finally, with respect to point (c), even if the Beck log only stores events for a short duration of time (although this point is not conceded), Beck would still fail to teach that "each event is defined to expire within *a respective selected time period if unused*" (emphasis added) as recited in the claims. Beck fails to teach at least two aspects of this limitation:

- Beck fails to teach events having *respective* selected time periods until they expire; and
- Beck fails to teach that events are defined to expire if *unused*.

Again, it is reiterated that Beck fails to teach events having selected time periods until they expire. However, even if the Beck log only stores events for a short duration of time (although this point is not conceded), such a teaching would still fall short of teaching respective time periods until expiration for each event. Also, since the Beck log stores "[t]he history of event instances," the Beck log clearly does not store or even relate to events that are unused.

Thus, for at leas the reasons set forth above, the proposed combination of Shoham and Beck fails to disclose or suggest all of the limitations of claim 1, and therefore cannot render claim 1 obvious.

Claims 2-4 and 13-18 depend from claim 1. Accordingly, these claims are considered to be patentably distinct over the cited art for at least the same reasons presented in connection with claim 1.

Claims 5 and 9 include limitations similar to those discussed above in connection with claim 1. Therefore, the discussion above applies equally to claims 5, 9, and their dependent claims.

For the reasons set forth herein, the Applicant submits that claims 1-29 are not rendered obvious by the proposed combination of Shoham and Beck. Therefore, the Applicant respectfully requests that the rejection of claims 1-29 be reconsidered and that claims 1-29 be allowed.

The Legal Standard for Obviousness Rejections Under 35 U.S.C. § 103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. Moreover, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.

With respect to alleged obviousness, there must be something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent

criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991; *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

A recent Federal Circuit case makes it clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35.

CONCLUSION:

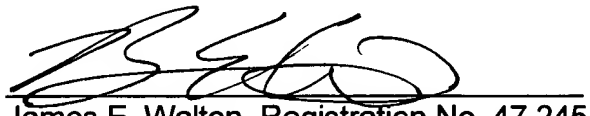
In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Enclosed herewith is a Petition for Extension of Time and a Request for Continued Examination (RCE). The RCE includes an authorization to charge the $790.00 fee for the RCE and $120.00 fee for a one-month extension of time to **Deposit Account No. 500777**. If the extension of time is missing or is insufficient for allowing this Amendment to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

14 FEB 2006
Date



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